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Total Number of Pages in This Submission

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Application Number

09/349,915

Filing Date

July 8, 1999

First Named Inventor

June et al.

Art Unit

1644

Examiner Name

Phillip Gambel

Attorney Docket Number

36119.125US10

ENCLOSURES (Check all that apply)

- ☐ Fee Transmittal Form
- ☐ Fee Attached
- ☐ Amendment/Reply
- ☐ After Final
- ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/Incomplete Application
- ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53

- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation
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- ☐ After Allowance communication to Technology Center (TC)
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) (please identify below):

Remarks

- Supplemental Response Pursuant to 37 C.F.R. Sec. 1.116 (3 Pages)
- Return postcard

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name

Colleen Superko, Reg. No. 39,850

Signature

Colleen Superko

Date

July 22, 2004

EXPRESS MAIL LABEL NO. EV 225201732.05
DATE OF DEPOSIT 7/22/04

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. 09/349,915 Art Unit: 1644
Applicant: June *et al.* Examiner: Phillip Gambel
Date Filed: July 8, 1999 Conf. No. 7335
Docket No. 36119.125US10 Cust. No. 23483
Title: **Methods for Selectively Stimulating Proliferation of T Cells**

CERTIFICATION UNDER 37 C.F.R. § 1.10

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SUPPLEMENTAL RESPONSE PURSUANT TO 37 C.F.R. § 1.116

Sir:

In further response to the Final Office Action dated *April 13, 2004* (hereinafter "Office Action") and Applicants' Amendment and Response dated May 3, 2004, please consider the following additional Remarks.

Clarification:

In the Final Office Action mailed April 13, 2004, the Examiner stated that

upon reconsideration of applicant's amended claims drawn to methods which employ the use of 'anti-CD3 and anti-CD28 antibodies which are covalently attached to the same surface to induce the population of T

cells to proliferate to sufficient numbers for use in therapy,' the previous rejection of the claims under 35 U.S.C. § 103, for allegedly being unpatentable over Ledbetter et al. (EP0440373) in view of Ledbetter et al. (U.S. Patent No. 6,010,902) and Chang (U.S. Patent No. 6,129,916) has been withdrawn. (Office Action, page 2, paragraph 5, emphasis added).

Applicants respectfully remind the Examiner that the pending claims, claims 60-64 and 66-76, in the instant application are drawn to methods which employ the use of anti-CD3 and anti-CD28 antibodies (or fragments thereof) which are **directly** attached to the same surface to induce the population of T cells to proliferate to sufficient numbers for use in therapy.

Applicants aver that the pending claims are not rendered obvious over Ledbetter et al. (EP0440373) in view of Ledbetter et al. (U.S. Patent No. 6,010,902) and Chang (U.S. Patent No. 6,129,916).

Provisional Obviousness Type Double Patenting Rejection:

The Examiner is requested to clarify the reason for imposing a provisional rejection of the instant application over co-pending U.S. Application Serial No. 09/553,865 (Office Action, page 5, section 6).

The instant application relates to methods for inducing *ex vivo* proliferation of a population of T cells to sufficient numbers for use in therapy, whereas the claims of U.S. Application Serial No. 09/553,865 are directed to compositions of matter.

Applicants respectfully contend that this provisional rejection has been erroneously made and request withdrawal of the same.